



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

518-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

WEST HOUSTON SURGICARE
970 CAMPBELL ROAD
HOUSTON TX 77024

Respondent Name

TRAVELERS INDEMNITY CO

Carrier's Austin Representative Box

Box Number 05

MFDR Tracking Number

M4-11-0711-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "This is to hereby serve as notification our position statement on this matter as follows; 1) allowed rate per workman comp fee guideline is; 6675.09 2) were paid - \$6398.65 3) Shortage due of (\$ 276.44)."

Amount in Dispute: \$276.44

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Provider billed three CPT codes: 29826 (arthroscopic decompression of the shoulder), 29806 (shoulder arthroscopy), and C1713 (implantable screws). The Carrier initially reimbursed the Provider for CPT code 29826 at \$2,225.03 and for CPT code 29806 at \$4,450.06. CPT code C1713 was not reimbursed, as the implantables were included in the higher reimbursement factor applied to the two procedures. This resulted in a total reimbursement of \$6,675.09. Upon receipt of the request for reconsideration, the Carrier calculated the reimbursement with separate implantables. The lower conversion factor results in reimbursement for CPT code 29826 at \$1,448.65, CPT code 29806 at \$2,897.29, and C1713 at \$1,802.63. This results in a total reimbursement of \$6,148.57. As the Provider had received reimbursement in excess of this amount in response to the original bill submission, and was now seeking separate reimbursement for the implantables, the Carrier sent a demand letter to the Provider seeking the overpayment. No response has been received from the Provider." "The Provider alleges entitlement to an additional \$2,605.69 in reimbursement for the implantables. This is based on the invoice total included in the Request plus 10% mark-up. The Provider's documentation does not support that all devices on the invoice were permanently implanted in the Claimant. The Carrier's review indicates that the proper reimbursement for the implantables actually used during the procedure and left inside the Claimant is \$1,802.63."

Response Submitted by: Travelers, 1501 S. Mopac Expressway, Suite A-320, Austin, TX 78746

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 2, 2010	ASC Services for code 29826-LT	\$672.24	\$672.20
	ASC Services for code 29806-59-LT	-\$4450.06	-\$4450.06
	HCPCS code C1713	\$2605.63	\$2335.57
TOTAL		\$276.44	Overpayment of \$1442.29, As a result \$0.00 Due

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.402, titled *Ambulatory Surgical Center Fee Guideline*, effective August 31, 2008, sets out the reimbursement guidelines for ambulatory surgical care services.
- The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated August 6, 2010

- FEES-W1-Workers compensation state f/s adj. reimbursement. Based on max allowable fee for this pro. Based on medical f/s, or if on is not specified, UCR for this zip code area.
- PAY-W1- Workers compensation state fee schedule adjustment. If reduction, then processed according to the Texas fee guidelines.
- T098-B7-The provider was not certified/eligible to be paid for this procedure/service on this date of service. Payment is denied. No ASC group is associated with this procedure.

Issues

- Did the requestor support position that the respondent did not pay the ASC services for code 29826-LT in accordance with 28 Texas Administrative Code §134.402? Is the requestor entitled to reimbursement?
- Did the requestor support position that the respondent did not pay the ASC services for code 29806-59-LT in accordance with 28 Texas Administrative Code §134.402? Is the requestor entitled to reimbursement?
- Did the requestor support position that the respondent did not pay HCPCS code C1713 in accordance with 28 Texas Administrative Code §134.402? Is the requestor entitled to reimbursement?
- What is the total reimbursement due the requestor for HCPCS codes 29826-LT, 29806-59-LT and C1713?

Findings

- The requestor is seeking additional reimbursement of \$672.24 for HCPCS code 29826-LT.

HCPCS code 29826-LT is defined as "Arthroscopy, shoulder, surgical; decompression of subacromial space with partial acromioplasty, with coracoacromial ligament (ie, arch) release, when performed (List separately in addition to code for primary procedure)."

The "LT" modifier designates that procedure was to left side.

28 Texas Administrative Code §134.402(f)(1)(B) states "The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the *Federal Register*, or its successor. The following minimal modifications apply: (1) Reimbursement for non-device intensive procedures shall be: (B) if an ASC facility or surgical implant provider requests separate reimbursement for an implantable, reimbursement for the non-device intensive

procedure shall be the sum of:

(i) the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission; and (ii) the Medicare ASC facility reimbursement amount multiplied by 153 percent."

28 Texas Administrative Code §134.402(f)(1)(B) reimbursement for non-device intensive procedure for HCPCS code 29826 is:

The Medicare ASC reimbursement rate is found in the Addendum AA ASC Covered Surgical Procedures. The ASC fully implemented relative payment weight for CY 2010 = 45.5859.

This number is multiplied by the 2010 Medicare ASC conversion factor of 45.5859 X \$41.873 = \$1,908.81.

The Medicare fully implemented ASC reimbursement rate is divided by 2 = \$954.40 (\$1,908.81/2).

This number X City Conversion Factor/CMS Wage Index for Houston, Texas is \$954.40 X 0.9841 = \$939.22.

The geographical adjusted ASC rate is obtained by adding half of the national reimbursement and wage adjusted reimbursement \$954.40 + \$939.22 = \$1,893.62.

Multiply the geographical adjusted ASC reimbursement by the DWC payment adjustment \$1,893.62 X 153% = \$2,897.23.

The MAR for HCPCS code 29826-LT is \$2,897.23. The insurance carrier paid \$2,225.03. The difference between amount due and paid equals \$672.20. This amount is recommended for additional reimbursement.

2. The requestor billed HCPCS code 29806-59-LT. The requestor noted on the Table of Disputed Services that the respondent paid \$4,450.06 for this service, and that an overpayment of \$4,450.06 was made.

HCPCS code 29806 is defined as "Arthroscopy, shoulder, surgical; capsulorrhaphy."

Per National Correct Coding Initiatives, HCPCS code 29826 and 29806 are typically not billed separately; however a modifier is allowed to designate a different service.

The requestor added modifier "-59" to HCPCS code 29806.

Modifier 59 - Distinct Procedural Service is defined as "Under certain circumstances, it may be necessary to indicate that a procedure or service was distinct or independent from other non-E/M services performed on the same day. Modifier 59 is used to identify procedures/services, other than E/M services, that are not normally reported together, but are appropriate under the circumstances. Documentation must support a different session, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same individual. However, when another already established modifier is appropriate it should be used rather than modifier 59. Only if no more descriptive modifier is available, and the use of modifier 59 best explains the circumstances, should modifier 59 be used. Note: Modifier 59 should not be appended to an E/M service. To report a separate and distinct E/M service with a non-E/M service performed on the same date, see modifier 25."

A review of the operative report indicates that the claimant underwent the following procedures: 1) Left SLAP repair, 29807; 2) Left subacromial decompression, 29826; 3) Left arthroscopic rotator cuff repair, 29827; and 4) Administration of injection peripheral nerves, 64450."

The Division finds that the requestor did not support billing of HCPCS code 29806 or the use of modifier "-59".

Therefore, the requestor correctly noted that an overpayment of \$4,450.06 was made.

3. The requestor states in the position summary that "This is to hereby serve as notification our position statement on this matter as follows; 1) allowed rate per workman comp fee guideline is; 6675.09 2) were paid - \$6398.65 3) Shortage due of (\$ 276.44)."

The requestor billed HCPCS code C1713 for the disputed implantables.

HCPCS code C1713 is defined as "Anchor/screw for opposing bone-to-bone or soft tissue-to-bone (implantable)."

The respondent states in the position summary that "The Provider alleges entitlement to an additional \$2,605.69 in reimbursement for the implantables. This is based on the invoice total included in the Request plus 10% mark-up. The Provider's documentation does not support that all devices on the invoice were permanently implanted in the Claimant. The Carrier's review indicates that the proper reimbursement for the implantables actually used during the procedure and left inside the Claimant is \$1,802.63."

28 Texas Administrative Code §134.402(b)(5) states "'Implantable' means an object or device that is surgically:

- (A) implanted,
- (B) embedded,
- (C) inserted,

- (D) or otherwise applied, and
- (E) related equipment necessary to operate, program, and recharge the implantable.”

A review of the submitted operative report indicates that “One (1) 3.5 Bio-Suture Tak was placed in posterior to the biceps anchor. This was passed using simple suture technique using a suture lasso and tied down using arthroscopic knot tying techniques. A 2nd anchor was placed at the 2 o'clock position anteriorly. Again this was a 2.6 PushLock....A 5.5 Bio-Corkscrew was placed in the anterior leaf of the tear and one in the posterior leaf...a separate Bio-Push Lock for a lateral row cross-bridge technique.”

The Division finds that the requestor’s documentation and product description do not support that the following disputed services billed under HCPCS code C1713 meet the definition of implantable per 28 Texas Administrative Code §134.402(b)(5): Multifire Scorpion Needle, Excalibur 3.8mm X 13cm and Clearcut Oval Burr.

The Division finds that the requestor’s documentation supports that the following disputed services billed under HCPCS code C1713 meet the definition of implantable per 28 Texas Administrative Code §134.402(b)(5): Suture TAK, PushLock, Bio-Corkscrew and Suture Lasso. Reimbursement is recommended for these services per 28 Texas Administrative Code §134.402(f)(1)(B)(i).

28 Texas Administrative Code §134.402(f)(1)(B)(i) states “ the lesser of the manufacturer’s invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on’s per admission.”

The requestor submitted a Anthrex invoice that supports the following:

DESCRIPTION	COST	COST PLUS 10%	MAR
Suture TAK	\$308.75	\$308.75 + \$30.87	\$339.62
PushLock	\$351.50 X 2 = \$703.00	\$703.00 + \$70.30	\$773.30
Bio-Corkscrew	\$327.72 X 2 = \$655.50	\$655.50 + \$65.55	\$721.05
Push Lock	\$323.00	\$323.00 + \$32.30	\$355.30
Suture Lasso	\$133.00	\$133.00 + \$13.30	\$146.30
TOTAL			\$2335.57

The MAR for HCPCS code C1713 is \$2335.57. The respondent paid \$0.00. The difference between the MAR and amount paid is \$2335.57. This amount is recommended for reimbursement for HCPCS code C1713.

4. The Division finds that the requestor has supported position that the respondent issued an underpayment for HCPCS codes 29826 of \$672.20; an overpayment of \$4450.06 for code 29806; and an underpayment of \$2335.57 for HCPCS code C1713, resulting in a overpayment of \$1,442.29 (\$4450.06- \$3,007.77). For that reason, \$0.00 additional reimbursement is recommended.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, the Division concludes that the requestor supported its position that additional reimbursement is due for HCPCS codes 29826 and C1713. The requestor also supported position that an overpayment of \$4,450.06 was made on HCPCS code 29806. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

2/8/2012
Date

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.